



UNITED STATES PATENT AND TRADEMARK OFFICE

W
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,171	03/27/2000	EREZ BRAUN	201448/321	4753
7590	10/21/2003		EXAMINER	
MICHAEL L. GOLDMAN NIXON PEABODY LLP CLINTON SQUARE P.O. BOX 31051 ROCHESTER, NY 14603-1051			JACKSON JR, JEROME	
			ART UNIT	PAPER NUMBER
			2815	
			DATE MAILED: 10/21/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/462,171	BRAUN ET AL.	
	Examiner	Art Unit	
	Jerome Jackson Jr.	2815	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 May 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-17 and 19-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-14, 19 and 21-32 is/are rejected.
- 7) Claim(s) 15-17 and 20 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 33. 6) Other:

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 is vague and indefinite as the structural relationship of the "entity" to the structure of claim 1 is indeterminate.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-14, 19, 21-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Mrockowski et al '748.

Mroczkowski teaches in figure 2, for example, electrically conducting interface components (or conductors) 23B, 24B; nucleotide (column 4 line 10) fibers 30B; and conductive particles 14B complexed along the fibers to form a conductive layer. Claim 1 is anticipated by '748. Claim 2 is rejected as the structure of '748 can be labeled a "wire". Claim 3 is rejected as the bonding of one nucleotide to another is inherent in the device of '748. In any event, because nucleotide segments have complementary

analogs, it also would have been obvious to have practiced complementary analogs for binding agents in '748. Claim 4 is rejected because the bound gold particles in '748 meet at "junctions". As best understood claim 5 is rejected as the structure of '748 comprises an "entity" which can function in the same manner. Claim 6 is rejected because the nucleotides of '748 have antibodies or gold attached to them. Claim 7 is rejected because the bound nucleotides are linked to electrodes 23B or 24B. Claim 8 is rejected because the gold particles or antibodies of '748 are "bound" to one another to form the "conductor" between electrodes 23B and 24B. Claim 9 is rejected as the bound antibodies 15B of '748 have the claimed groups or in the alternative it would have been obvious to provide antibodies with such groups for excellent attachment. Claim 10 is rejected as per claim 1. Claim 11 is rejected as the "conductor" of '748 comprises a nucleotide "chain". Claim 12 is rejected as '748 functions or is made in the same manner. Claim 13 is rejected as gold is bound to a nucleotide fiber in '748. Claim 14 is rejected as non-metallic antibodies are bound to the nucleotide in '748. Claim 19 is rejected as nucleotide chains are joined in '748. Claims 21-23 are rejected as the electrodes of '748 are connected to a device to measure resistance. Claims 24 and 26 are rejected as the nucleotides, antigens, and gold are connected or "bound" to the electrodes 23B, 24B. Claim 27 is rejected as above. Claim 28 is rejected as the process and structure of figure 2 of '748 comprise providing conductors 23B, 24B, linkers 15B, and functionalizing with gold 14B. Claims 29-32 are rejected as the process of '748 is self-assembling.

Art Unit: 2815

Claims 15-17,20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerome Jackson Jr. whose telephone number is 703 308 4937. The examiner can normally be reached on t-th 9-5.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0956.

jj

JEROME JACKSON
PRIMARY EXAMINER

